

THE HONORABLE JAMES L. ROBART

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,	)	
	)	Case No. 2:12-cv-01282-JLR
Plaintiff,	)	
	)	<b>CITY OF SEATTLE’S UNOPPOSED</b>
v.	)	<b>MOTION FOR COURT APPROVAL OF</b>
	)	<b>REVISIONS TO SEATTLE POLICE</b>
CITY OF SEATTLE,	)	<b>DEPARTMENT’S CRISIS</b>
	)	<b>INTERVENTION, BIAS-FREE</b>
Defendant.	)	<b>POLICING, AND EMPLOYEE</b>
	)	<b>CONDUCT POLICIES</b>
	)	
	)	<b>NOTE ON MOTION CALENDAR: May</b>
	)	<b>17, 2019</b>
	)	

The City of Seattle moves for an order approving the proposed revisions of the Seattle Police Department (“SPD”) to its Crisis Intervention, Bias-Free Policing, and Employee Conduct Policies. The Department of Justice (“DOJ”) and the Monitor have approved the proposed revisions and do not oppose this Motion.

**I. Background**

The Consent Decree required SPD to draft or revise policies addressing its core topics. The City drafted, revised, and implemented those policies with the assistance of the Monitor, the

1 Department of Justice (“DOJ”), and the Community Police Commission (“CPC”), and with the  
 2 approval of the Court and Monitor in the years leading to the Court’s January 2018 ruling that the  
 3 City had achieved full and effective compliance with the Consent Decree.

4 During the sustainment period following full and effective compliance, the City, DOJ, and  
 5 the Monitor agreed that SPD would review Consent-Decree-mandated policies annually, consult  
 6 with the DOJ and Monitor about any proposed changes, and seek Court approval of any changes.  
 7 *See* Phase II Sustainment Period Plan (dkt. 444) at 10. In accordance with the schedule  
 8 established by the Court-approved Sustainment Plan, the City now submits revisions to SPD’s  
 9 Crisis Intervention Policy and Bias-Free Policing Policy, set forth, respectively, in sections  
 10 16.110 and 5.140 of the Seattle Police Manual. These revisions have been approved by the  
 11 Monitor and DOJ.

12 In addition, although this policy is not explicitly addressed in the Consent Decree or the  
 13 Sustainment Plan, the City also submits proposed revisions to sections 5.001-003 of SPD’s  
 14 Employee Conduct Policy. The City sought the collaboration of the Monitor and DOJ, because  
 15 these policies have an indirect bearing on the issues of accountability and discipline which are  
 16 addressed by the Consent Decree.<sup>1</sup> Through productive discussions and multiple rounds of  
 17 extensive edits, SPD, OPA, OIG, the Monitor, and DOJ reached a consensus on a set of policy  
 18 revisions. The City now presents these policies to the Court.

## 19 II. SPD’s Policy Review Process

20 SPD’s Audit, Policy, and Research section (“APRS”) is primarily responsible for the  
 21 policy review process at SPD. APRS is led by a captain (currently Captain Michael Teeter) who  
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23 <sup>1</sup> The Consent Decree addresses police accountability and discipline in general terms but does not mandate any particular structure or processes. Consent Decree ¶¶ 164-68, 170.

1 reports to the assistant chief (currently Assistant Chief Lesley Cordner) who oversees SPD's  
 2 Professional Standards Bureau ("PSB"). Within APRS, a "policy squad" consisting of a sergeant  
 3 and three detectives takes responsibility for policy reviews. APRS currently maintains a calendar  
 4 that ensures that every policy in the Seattle Police Manual is reviewed at least once every three  
 5 years. APRS reviews Consent Decree policies annually.

6 SPD's standing policy committee helps guide APRS's work. The committee, comprised  
 7 of the APRS Captain, the Assistant Chief overseeing PSB, SPD's Executive Director of Legal  
 8 Affairs, and its Chief Operating Officer, meets weekly (along with APRS officers assigned to the  
 9 policies under review) to discuss scheduled policy reviews and any acute policy concerns that  
 10 have come to the committee's attention. Those concerns can be raised by any SPD unit or bureau  
 11 chief, but they often come directly from the recommendations of SPD's Force Review Board,  
 12 which meets weekly to review the most serious uses of force by SPD officers, as well as less  
 13 serious uses of force as dictated by policy. Patrol personnel are also encouraged to contact APRS  
 14 directly to discuss policy issues that impact patrol officers.

15 APRS also incorporates policy suggestions from outside the Department. The Office of  
 16 Police Accountability ("OPA") routinely submits letters to the Chief of Police, many of which  
 17 focus on policy change recommendations.<sup>2</sup> APRS has shared its policy review calendar with the  
 18 CPC, which offers suggestions about policy changes.

19 For most policies, APRS develops proposed changes in coordination with the Assistant  
 20 Chief overseeing PSB by consulting with SPD subject-matter experts and the SPD units most  
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22 <sup>2</sup> OPA publishes its Management Action Recommendations and SPD's responses at  
 23 <https://www.seattle.gov/opa/management-action-recommendations>.

1 impacted by the policy under review. When appropriate, APRS detectives also reach out to police  
2 departments across the country to review policies addressing the same topics. Once APRS has  
3 completed proposed policy changes, the standing policy committee reviews them and, if it  
4 approves, forwards the revised policy to the Chief of Police (or her designee, typically the Deputy  
5 Chief) for final approval.

6 Consent Decree policies are reviewed in much the same way, with a few additional steps.  
7 Once APRS and the policy committee have approved proposed changes, the City forwards the  
8 proposed changes to the Monitoring Team and DOJ for review and input. Where the DOJ or  
9 Monitoring Team identify concerns, the City discusses those concerns and, where appropriate,  
10 makes additional modifications. The City also solicits feedback from OIG, OPA, and CPC. Once  
11 that process is complete, the City submits the policies to the Court for approval.

12 Once a policy change receives final approval (from the Chief of Police, her designee, or  
13 the Court, depending on the policy), SPD uses its “e-Directive” system to notify every officer and  
14 civilian employee. The e-Directive system forwards policy changes to everyone at SPD, it  
15 requires each employee impacted by the policy (for the use of force policy, this includes all sworn  
16 personnel) to answer online questions about the policy and verify that he or she has reviewed it.  
17 Unit supervisors are notified and expected to take corrective action when officers or employees in  
18 their units have not completed e-Directive certifications. For policy changes that require training  
19 to implement, SPD also ensures that each officer mandated to complete the training has done so.

### III. Proposed Changes to Crisis Intervention Policy

In addition to DOJ, the Monitor, and CPC, the Crisis Intervention Committee<sup>3</sup> also reviewed the proposed changes to the Crisis Intervention policy. Only minor revisions to this policy are proposed. A number of very small edits were to make language more clear or precise. A note of clarification is added to 16.110-POL-5, which addresses taking a person into custody based on an order from the person's designated crisis responder (typically a mental health professional). The added language clearly sets out the boundaries of an officer's legal authority in that situation; for example, such an order does not give an officer authority to enter a person's house without consent.

Language in the Crisis Intervention policy is updated to reflect the creation of SPD's new Collaborative Policing Bureau which is now home to the Crisis Response Unit.

The proposed revisions delete the policy setting forth the steps to follow if King County Jail declines to book a suspect in behavioral crisis, because this policy is no longer necessary. King County Jail has adequate, trained staff resources to safely handle people experiencing a behavioral crisis, and so this policy is obsolete (and has been for years). For suspects who cannot be booked because of medical needs that require hospital attention, other policies apply. General rules for transporting detainees are provided at 11.020. The policy that governs whether and how detainees are guarded at hospitals is set forth at 11.030. The proposed revisions to 16.110 are attached to this motion as Exhibit A.

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<sup>3</sup> As required by the Consent Decree, SPD established the Crisis Intervention Committee, a regional interagency coalition of social service providers, mental health experts, law enforcement and judicial representatives.

1       **IV. Proposed Changes to Bias-Free Policing Policy**

2       As part of its commitment to bias-free policing, SPD is proposing improvements to the  
3 process for handling allegations of bias. SPD made revisions intended to ensure the adequacy of  
4 bias investigations under circumstances in which the person making the allegation left the scene  
5 prior to a supervisor's arrival or declined to speak with the supervisor. The proposed revisions  
6 require that an officer who receives a bias complaint must ask the person to (voluntarily) provide  
7 contact information before he or she leaves the scene. If the person leaves the scene without talking  
8 to a supervisor, then the supervisor must make meaningful attempts to contact them afterward. If  
9 the complainant is still unavailable or unresponsive, then the supervisor must review any body-  
10 worn video and in-car video of the incident. The proposed revisions to 5.140 are attached to this  
11 motion as Exhibit B.

12       **V. Proposed Changes to Sections 5.001-003 of Employee Conduct Policy**

13       The proposed revisions to the Employee Conduct Policy, title sections 5.001-003,  
14 accomplish two important goals. First, they delineate clear lines of responsibility with respect to  
15 serious policy violations, which must be referred to OPA for investigation. Second, they empower  
16 supervisors to address performance deficiencies through mentoring, counseling, and setting clear  
17 expectations.

18       These changes continue SPD's work to address feedback from the Monitoring Team and  
19 other stakeholders that supervisors should have greater responsibility to address minor policy  
20 violations. *See e.g., Monitor's Fourth Systemic Assessment* at 5-6. Effective supervisory  
21 engagement requires the ability to handle relatively small performance issues quickly and  
22 informally, through feedback, instruction, or training. It has the potential to impede on-the-job  
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1 learning and the supervisor-employee relationship if all performance matters must be submitted  
2 through the formal OPA process.

3 The revisions to 5.001 and 5.002 involve a substantial reorganization of the various  
4 subsections, so that they appear in order of importance and related sections are grouped together.  
5 For clarity, the redlines to these policies do not show if the text was moved without any other  
6 change.

7 Section 5.001 addresses employee standards and duties. The proposed revisions to this  
8 policy are limited to reorganization, clarifications, and explanatory additions.

9 Section 5.002 governs the responsibilities of employees concerning alleged policy  
10 violations. Substantial revisions are proposed to this section. To provide greater guidance to  
11 supervisors regarding the matters that must be referred to OPA, it defines a new term, “Serious  
12 Policy Violation,” clarifies the categories of misconduct that qualify as Serious Policy Violations,  
13 and mandates that all conduct within these categories must be referred to OPA. Under the  
14 proposed revisions, Serious Policy Violations include: use of force that is not reasonable,  
15 necessary, and proportional; violations of constitutional protections; criminal violations;  
16 dishonesty; bias-based policing; and failure to cooperate in an internal investigation. The revised  
17 version of 5.002 also defines another new term, “Performance Deficiencies,” as failures to meet  
18 the Department’s performance expectations, including any policy violations that are not  
19 categorized as Serious Policy Violations. Performance Deficiencies are handled internally by the  
20 Chain of Command, rather than being referred to OPA.<sup>4</sup>

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22  
23 <sup>4</sup> Repeated policy violations are still referred to OPA, even if the violation is not a Serious  
Policy Violation. *See* revised 5.002-POL-4.

1 The proposed revisions to 5.002 also create a new screening procedure for  
2 “Unsubstantiated Allegation of Serious Misconduct.” This process is employed when a supervisor  
3 investigates an alleged Serious Violation Policy and determines that the evidence refutes the  
4 allegations. For example, there is an allegation of excessive force, and the officer’s body-worn  
5 video definitely establishes that the officer made no physical contact whatsoever with the  
6 complainant. Under current policy, such an allegation would still be referred to OPA for  
7 investigation. Under the revised policy, the supervisor will review the incident with a lieutenant or  
8 captain, document the incident, and then send it to OPA for screening. OPA will confirm that the  
9 complaint is unsubstantiated and then return it to the chain of command, instead of conducting a  
10 full investigation. This revision will allow OPA’s investigative resources to be better focused. OIG  
11 began tracking the new screening procedure in 5.002 for Unsubstantiated Allegations of Serious  
12 Misconduct when this procedure was being tested as a pilot program, and OIG will continue to  
13 exercise oversight going forward.

14 The revisions to 5.003 are also significant. The existing version of 5.003, titled “Frontline  
15 Investigations,” established a process for SPD supervisors to handle minor policy violations  
16 (which are redefined as Performance Deficiencies in the proposed version of 5.002) internally,  
17 rather than referring all violations to OPA. The new proposed changes maintain this purpose, but  
18 clarify the supervisor’s role embraces coaching, mentoring, and training—in addition to making  
19 appropriate referrals to OPA.

20 The proposed version of 5.003 is titled Performance Counseling Review. The new policy  
21 clarifies the role of supervisors in addressing Performance Deficiencies. It directs supervisors to  
22 counsel and mentor employees to address Performance Deficiencies, and identifies specific, non-  
23 disciplinary remedial actions that supervisors can take, such as training, direct coaching, and



1 mentoring. In the revised policy, Performance Deficiencies are documented and logged in SPD's  
2 management system, BlueTeam, instead of in the Performance Appraisal System (where they are  
3 currently recorded). The BlueTeam records will ensure transparency and enable auditing of this  
4 new system to ensure that it is used appropriately. For the first six months under the new policy,  
5 OPA will monitor all of the Performance Deficiencies being documented. The new process in  
6 5.003 for handling Performance Deficiencies within the chain of command will be routinely  
7 audited by OIG to ensure that they are being consistently and appropriately handled.

8 The proposed revisions to 5.001-003 are attached to this motion as Exhibit C.

9 **VI. Conclusion**

10 For the reasons stated above, the City respectfully requests that the Court approve the  
11 proposed revisions to SPD's policies.

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14 DATED this 30th day of April, 2019.

15 For the CITY OF SEATTLE

16  
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**CERTIFICATE OF SERVICE**

I hereby certify that on April 30th, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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DATED this 30th day of April, 2019, at Seattle, King County, Washington.

s/ Kerala T. Cowart  
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